

Chapter 7.53
WATER POLLUTION CONTROL

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7.53.010 Title.

This chapter shall be known as the Snohomish County Water Pollution Control Code.

7.53.020 Declaration of purpose.

The purpose of this code is to protect the quality of Snohomish County's receiving waters, and to protect the integrity of public drainage facilities, by providing minimum requirements for the control of discharges of contaminants to public drainage facilities, natural drainage systems, and stormwater and receiving waters therein.

7.53.030 Applicability.

Unless specifically exempted herein, this chapter applies to all discharges that occur in the unincorporated area of Snohomish County.

7.53.040 Administration -- authority of directors.

The directors of public works and planning and development services are authorized to adopt and amend administrative rules pertaining to their responsibilities as established in this chapter for the purpose of implementing and enforcing the provisions of this chapter. Copies of all administrative rules and amendments thereto shall be available to the public at the respective departments.

7.53.050 Snohomish County Drainage Manual.

The director of public works is authorized to develop, adopt and amend technical guidelines and best management practices for implementing the requirements of this chapter, and include those technical guidelines and best management practices in the Snohomish County Drainage Manual developed by the director of public works as authorized by SCC 30.63A.040.

7.53.060 Definitions.

In this chapter, unless the context clearly requires otherwise,

- (1) "Best management practices" or "BMPs" means physical objects, structures, managerial practices, or behaviors, that when used singly or in combination, eliminate or reduce the introduction of contaminants to stormwater or receiving waters.
- (2) "Chapter" means this chapter and any administrative rules and regulations adopted to implement and enforce it.
- (3) "Clean Water Act" means 33 U.S.C. 1251 et. seq., as now existing or hereafter amended.
- (4) "Connection" means a plumbing or hydraulic connection.
- (5) "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a drainage facility, natural drainage system, or receiving waters, will alter the physical, chemical, or biological properties thereof to the extent that the discharge will render the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life. Contaminants may include, but are not limited to the following: trash or debris; construction materials; petroleum products including but not limited to oil, gasoline, grease, fuel oil or heating oil; antifreeze and other automotive products; metals in either particulate or dissolved form; flammable or explosive materials; radioactive material; batteries; acids, alkalis, or bases; paints, stains, resins, lacquers, or varnishes; degreasers and solvents; drain cleaners; pesticides, herbicides, or fertilizers; steam cleaning wastes; soaps, detergents, or ammonia; chlorine, bromine, or other disinfectants; heated water; animal wastes; sewage; animal carcasses; food wastes; bark, soils, sediment and other fibrous materials; collected lawn clippings, leaves, or branches; dyes, except as allowed in SCC 7.53.090(g); and waste water generated by commercial or industrial activities.
- (6) "County" means Snohomish County.
- (7) "Director" means the director of planning and development services unless otherwise specified.

(8) "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour any matter into water, or to cause or allow matter to be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water, or to cause or allow matter to flow, run, or seep from land into water.

(9) "Drainage facility" means any part of a man-made physical system that collects, conveys, stores, or controls the flow of stormwater or receiving waters. Drainage facilities include, but are not limited to, stormwater conveyance and containment facilities, including pipelines, constructed channels and ditches, catch basins, infiltration facilities, retention and detention facilities, stormwater treatment facilities, erosion and sedimentation control facilities, all other drainage structures and appurtenances.

(10) "Groundwater" means all waters that exist beneath the land surface or beneath the bed of any stream, lake, or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands, flows, percolates or otherwise moves.

(11) "National Pollutant Discharge Elimination System" or "NPDES" means the national program authorized under the Clean Water Act for controlling pollutants from point and nonpoint source discharges into waters of the United States.

(12) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued by the Washington State Department of Ecology acting on behalf of the Environmental Protection Agency, to implement the requirements of the Clean Water Act.

(13) "Natural drainage system" means the physical beds and boundaries of receiving waters, including those natural drainage systems that have been altered by human actions.

(14) "Person" means any individual, government agency, municipality, corporation, limited liability corporation, partnership, association, firm, or any other legal entity whatsoever.

(15) "Public drainage facility" means any drainage facility owned or operated by Snohomish County, including but not limited to all drainage facilities located within the public right-of-way or on other County property, and including natural drainage systems located therein.

(16) "Receiving waters" means lakes, rivers, ponds, streams, wetlands, groundwater, brackish or salt waters including any part of Puget Sound within Snohomish County, and all other naturally occurring surface waters and watercourses, including those for which the physical beds and boundaries have been altered by human actions.

(17) "Source control best management practices" or "source control BMPs" means structures, equipment, supplies, or operations that are intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants.

(18) "State Waste Discharge Permit" means a permit issued by the Washington State Department of Ecology in accordance with Chapter 173-216 of the Washington Administrative Code (WAC).

(19) "State Water Quality Standards" means those water quality standards established by the Department of Ecology for surface water, as set forth in Chapter 173-201A of the Washington Administrative Code, and for groundwater, as set forth in Chapter 173-200 of the Washington Administrative Code.

(20) "Stormwater" means surface water runoff resulting from rainfall, snowmelt, or other precipitation, prior to discharge to a receiving water.

(21) "Snohomish County Drainage Manual" or "Manual" means the manual adopted pursuant to Chapter 30.63A SCC.

7.53.065 Violations.

Violations of any provision of this chapter are subject to enforcement action under this chapter as set forth herein. Violations may include but are not limited to:

- (1) discharging a contaminant into a drainage facility, natural drainage system, or receiving water within Snohomish County;
 - (2) failure to notify the director of public works of a prohibited discharge or dye testing as required by this chapter;
 - (3) failure to implement BMPs required by this chapter;
 - (4) failure to comply with rules or regulations adopted pursuant to the administrative authority of the applicable department;
- or
- (5) failure to comply with a citation.

7.53.070 Prohibited discharges.

Except as allowed in SCC 7.53.090, the following discharges to any drainage facility, natural drainage system, or receiving water within Snohomish County are prohibited:

- (1) any discharge not completely composed of stormwater;
- (2) any discharge that causes or contributes to a violation of State Water Quality Standards;
- (3) any discharge that causes or contributes to a violation of any NPDES permit or State Waste Discharge permit issued to the County;
- (4) any discharge that causes the County to be in violation of the State Underground Injection Control Program (Chapter 173-218 WAC); or
- (5) any discharge that contains contaminants.

7.53.080 Prohibited plumbing or sewer connections.

Plumbing or sewer connections that could discharge contaminants to a drainage facility, natural drainage system, or receiving water within Snohomish County, in violation of SCC 7.53.070 are prohibited except:

- (1) connections conveying discharges allowed by an NPDES permit, a State Waste Discharge Permit; or
- (2) connections conveying effluent to subsurface soils from onsite sewage disposal systems authorized by the Snohomish Health District or the Washington State Department of Ecology, provided that such discharges do not otherwise violate SCC 7.53.070.

7.53.090 Allowed discharges.

The following discharges are allowed if the discharge does not contain contaminants:

- (1) naturally occurring surface water and groundwater;
- (2) diverted stream flows;

- (3) uncontaminated groundwater entering drainage facilities via pipe joints, pipe connections, manholes, defective pipes, or via seepage from the earth into open drainage structures such as ditches or ponds;
- (4) pumped groundwater;
- (5) water discharged from foundation drains, footing drains, and crawl space pumps;
- (6) air conditioning condensation;
- (7) irrigation water from agricultural sources that is commingled with stormwater;
- (8) runoff from lawn watering and landscape irrigation;
- (9) materials used or structures installed as part of capital construction projects, habitat restoration projects, bank stabilization projects, scientific research, or similar projects, as approved by Snohomish County, the State of Washington, or the federal government;
- (10) marine engine exhaust and cooling water; and
- (11) non-toxic dye used for identifying and testing sewer connections.

7.53.095 Conditionally allowed discharges.

The following discharges are allowed only if the discharges do not contain contaminants, and if the discharges meet the conditions set forth below:

- (1) potable water discharges, including water line flushing, fire hydrant system flushing, and pipeline hydrostatic testing are allowed provided that the discharge contains less than 0.1 milligram per liter of chlorine, has a pH between 6.5 and 8.5, and does not cause resuspension of sediment in the storm sewer;
- (2) swimming pool and spa discharges are allowed provided that the discharge contains less than 0.1 milligram per liter of chlorine and does not contain algicides other than chlorine or bromine compounds; and
- (3) discharges of water from washing streets, sidewalks, and building exteriors, and water used to control dust are allowed provided that the discharge does not contain soap or detergent, and that streets and sidewalks associated with active construction sites are swept prior to washing.

7.53.100 Advance notice of dye testing required.

Any person conducting dye testing in accordance with SCC 7.53.090 shall notify the director of public works at least twenty-four hours prior to the date of test.

7.53.110 Emergency public fire fighting discharges exempt.

Discharges resulting directly from emergency public fire fighting activities are exempt from compliance with this chapter. However, discharges resulting from maintenance, repair, or operation of fire fighting equipment and facilities that are not directly associated with public fire fighting, including discharges from public fire fighting training exercises, are not exempt from compliance with this chapter.

7.53.120 Best management practices (BMPs) required.

- (1) Any person storing or using materials containing contaminants in any manner that may result in a prohibited discharge shall implement the source control BMPs described in Chapter 2, Volume 4 of the Snohomish County Drainage Manual.

(2) Any person operating a facility or performing an activity described in Chapter 3, Volume 4 of the Snohomish County Drainage Manual shall implement the source control BMPs described therein for the facility or activity.

(3) Full implementation of all stormwater BMPs required by an NPDES industrial stormwater permit or State Waste Discharge Permit shall constitute compliance with this section.

(4) As an alternative to implementing the BMPs described in SCC 7.53.120(1) through (3), the director of public works or planning and development services may allow or require implementation of BMPs from Chapters 4 or 5 of Volume 4 or from Volumes 2, 3, or 5 of the Snohomish County Drainage Manual, or BMPs from other documents such as stormwater pollution prevention plans developed pursuant to farm plans or similar documents, if the director determines the alternative BMPs are equivalent to those set forth in SCC 7.53.120(1) through (3).

(5) Implementation of the source control BMPs described in SCC 7.53.120(1) through (4) is the minimum required step toward preventing prohibited discharges. Full implementation of BMPs required by this section does not exempt a person from also complying with the requirements of SCC 7.53.065, SCC 7.53.070, SCC 7.53.080, SCC 7.53.090, and SCC 7.53.095.

7.53.130 Inspections by the director.

If not otherwise allowed by easements, covenants, or other enforceable documents, the director of public works or planning and development services may inspect properties or facilities to determine compliance with this chapter, if permission to do so is granted by a property owner or other person with authority to grant such permission. Such inspections may include the following activities:

(1) examination of vehicles, trailers, tanks, mobile or stationary equipment which could cause a prohibited discharge;

(2) inspection, sampling, and testing any area, discharge, material, or drainage facility for the purpose of determining the potential for contribution of pollutants to drainage facilities or receiving waters.

(3) investigation of the integrity of drainage facilities on the premises using appropriate tests including but not limited to dye or smoke testing or video surveys;

(4) creating records reasonably necessary to document conditions related to stormwater pollution or BMPs implemented on the premises, including but not limited to photographs, video, measurements, or drawings;

(5) inspection and copying of nonconfidential records relating to site activity or processes presently or previously occurring, including but not limited to material safety data sheets, stormwater pollution prevention plans, spill response plans, hazardous waste manifests, drainage inspection records, state or federal stormwater permits, or other records related to prohibited connections or discharges.

7.53.135 Inspection, maintenance, and repair of private drainage facilities.

(1) Any owner or operator of a drainage facility of the types described in Chapter 4, Volume 5 of the Snohomish County Drainage Manual must inspect the drainage facility annually in accordance with the inspection procedures set forth in that chapter.

(2) If conditions in a drainage facility indicate that maintenance or repair is needed based on Chapter 4, Volume 5 of the Snohomish County Drainage Manual,

the owner or operator shall perform the maintenance and repair actions described in that chapter within one year of the date of inspection, provided that capital repair actions costing more than twenty-five thousand dollars shall be performed within two years of the date of inspection.

(3) Inspection and maintenance records shall be retained for a minimum of five years, and shall be made available to Snohomish County upon request.

(4) This section does not apply to drainage facilities for which inspection and maintenance responsibilities and requirements have been contractually established in easements, covenants, or other enforceable documents.

7.53.140 Notification of discharges required.

Any person causing or allowing a prohibited discharge shall report the discharge immediately upon discovery to the director of public works or planning and development services. This reporting requirement is in addition to any other notification required under federal, state or local laws and regulations.

7.53.150 Investigation and testing of prohibited discharges.

If the director of public works or planning and development services determines either by notification or by testing that a prohibited discharge is occurring or has occurred, he or she may require the person causing or allowing the discharge to investigate and test private plumbing, sanitary sewers, and drainage facilities, and test water to determine its nature and character, or to determine the source or cause of the discharge. Alternatively, the director may perform such investigations and tests and recover the costs thereof, as part of the enforcement proceedings authorized herein.

7.53.160 Enforcement -- Chapter 30.85 SCC not applicable.

Enforcement of violations of this chapter and standards required hereunder is not subject to the provisions of chapter 30.85 SCC.

7.53.180 Enforcement -- citation and order to cease violation.

(1) Whenever any condition is found to be in violation of this chapter or standards required hereunder, the director may cause a citation to be issued to the person(s) causing or allowing the violation, which may include an order to immediately cease the activity causing the violation.

(2) The citation shall include the following information:

- (a) the name(s) of the parties determined to be responsible for the violation(s);
- (b) the address or legal description of the location where each violation has occurred;
- (c) a brief description of the activity which is causing or allowing the violation;
- (d) the specific provision of this chapter which has been violated;
- (e) a description of any required corrective action;
- (f) a deadline by which corrective action, if any, must be completed;

- (g) the amount of monetary penalty imposed, if any, and the date by which payment shall be made;
- (h) the signature and written name of the county official issuing the citation;
- (i) the date of the citation; and
- (j) notice of the right to appeal provided in SCC 7.53.230.

(3) A citation may be amended at any time to correct clerical errors, which shall not affect the validity of the citation.

(4) The citation shall be served upon the person(s) named therein personally, by certified mail sent to the person's last known address, or, if these means are not feasible, by posting a copy of the citation in a conspicuous place at the site of violation.

7.53.190 Warning notice as alternative to citation

(1) As an alternative to issuing a citation, the director may issue a warning notice to person(s) causing or allowing an apparent violation of this chapter if the director determines that the apparent violation does not pose a threat to public health, safety, or welfare, and can be corrected within a reasonable amount of time. A warning notice is a communication by the director containing recommended actions that may be taken by a person responsible for an apparent violation in order to potentially avoid the issuance of a citation.

(2) The warning notice shall include the following information:

- (a) the name(s) of the parties determined to be responsible for the apparent violation(s);
- (b) the address or legal description of the location where each apparent violation has occurred;
- (c) a brief description of the activity which is causing or allowing the apparent violation;
- (d) the specific provision of this chapter which has been apparently violated;
- (e) a description of any recommended corrective action;
- (f) a deadline by which corrective action should be completed in order to avoid issuance of a citation by the director;
- (g) the signature and written name of the county official issuing the warning notice; and
- (h) the date of the warning notice.

(3) The director retains the authority to issue a citation for a violation of this chapter irrespective of previous issuance of a warning notice.

7.53.200 Enforcement -- civil penalties and costs.

Whenever a condition is found to be in violation of this chapter or standards required hereunder, the director of planning and development services may impose a monetary penalty upon the person(s) causing or allowing the violation in an amount not less than \$100.00 but not more than \$1,000.00 per day, for each violation. The director shall develop written policies governing the imposition or suspension of penalties under this section which shall be forwarded to the Council

for approval by written motion. In addition to any penalties imposed under this section, the person cited shall be liable for all costs, including costs of mitigating or remediating any damage caused by the unlawful discharge and the costs of suit and reasonable attorney's fees, incurred by the County in enforcing this chapter.

7.53.210 Enforcement -- criminal penalty.

As an alternative to any other legal or equitable remedy provided in this chapter or other law, any person who willfully or knowingly violates any provision of this chapter or any order issued pursuant to this chapter, or by each act of commission or omission procures, aids or abets such violation, shall be guilty of a misdemeanor and upon conviction shall be punished in the manner provided for in RCW 9A.20.021, as it now exists or is hereafter amended, for violations of state law. Each day such violation continues shall be considered an additional misdemeanor offense.

7.53.220 Joint and several liability.

Each person causing or allowing a violation of this chapter shall be jointly and severally liable to the county for the violation and any penalties, costs and fees imposed as a result of the violation.

7.53.230 Voluntary compliance agreements.

(1) Whenever the director finds that it is in the county's best interests to enter into a contract with a person cited under this chapter for the purpose of ordering corrective action or the performance of mitigation or remediation work to the site impacted or damaged by a violation of this chapter, the director may recommend to the county executive that a voluntary compliance agreement be executed with such person. By entering into such an agreement, the person cited waives any right to appeal a citation issued under this chapter.

(2) The voluntary compliance agreement shall specify the work or actions to be taken and the deadline by which the same shall be accomplished. By entering into such an agreement, the person cited consents to the entry of the county onto their property for purposes of inspection of the required work provided that the county shall endeavor to notify the person cited before the inspection.

(3) The director may suspend or reduce penalties under a voluntary compliance agreement contingent upon the satisfactory completion of all work required thereunder. However, the agreement shall provide that if the responsible party fails to comply with the terms of the agreement, any penalties suspended during the term of the agreement may be tripled and imposed upon the person cited, beginning from the date of the violation. Upon successful completion of all requirements set forth in the agreement, the department shall issue written confirmation of such completion to the responsible party.

7.53.240 Appeal.

Any person receiving a citation issued under this chapter may appeal such citation to the Snohomish County Superior Court. Appeals must be filed and served upon the County within 20 calendar days after issuance and service of the citation. The filing of an appeal shall not stay the effect of any order issued pursuant to SCC 7.53.180, provided that, subsequent to the filing of an appeal, the court may enter a stay in its discretion. The appeal shall be heard by the court sitting without a jury.

At the hearing on the appeal, the county shall have the burden of proof which shall be met by a preponderance of the evidence.

7.53.250 No county liability.

Administration or enforcement of this chapter shall not be construed to impose or create a basis for any liability on the part of the county, its appointed or elected officials, officers, agents, or employees, nor shall this chapter be construed to create any special relationship with or otherwise protect any specific person or class of persons.

7.53.260 Immunity from suit.

(1) Any county appointed or elected officials, officers, agents or employees charged with the administration or enforcement of this chapter acting in good faith and without malice on behalf of the County, shall not be personally liable for any damage that may accrue to persons or property as a result of any act required by the county, or by reason of any act or omission in the discharge of those duties.

(2) Any suit brought against county appointed or elected officials, officers, agents or employees because of an act or omission performed in the administration or enforcement of any provision of this chapter shall be defended by the county subject to the provisions of SCC 2.90.085.

7.53.270 Compliance with other laws.

Compliance with this chapter does not constitute a waiver of the requirements of any other applicable federal, state or local laws and regulations.

7.53.280 Sunset.

This chapter is repealed effective on the date three years following re-enactment unless re-enacted prior to that date, as provided in Snohomish County Charter section 2.115.